IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4140 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

THAKORBHAI ZINABHAI GARASIA

Appearance:

MR ASHISH M DAGLI for Petitioner

MR PRABHAKAR UPADYAY for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 20/06/2001

ORAL JUDGEMENT

Rule. Mr.Prabhakar Upadhyay, learned advocate waives service of rule on behalf of the respondent.

2. The Special Civil Application is filed by the Gujarat State Road Transport Corporation (hereinafter referred to as "the Corporation"), challenging the award passed by the Labour Court in Reference (LCV) No.610 of

1996 dated 30.11.1999, whereby the penalty imposed by the petitioner corporation on the respondent workman of dismissal by an order dated 7.7.1994 was quashed and set aside and reinstatement was granted without awarding back wages. Mr.A.M. Dagli, learned advocate for the respondent corporation submitted that the respondent workman was in the habit of remaining absent without permission. However, the Labour Court having taken into consideration the contentions of both the sides came to the conclusion that it will be in the interest of justice, if reinstatement is granted without awarding back wages. The discretion exercised by the learned Judge is not reasonable inasmuch as if there were number of similar instances of remaining absent without permission in the past, the Labour Court ought to have taken into consideration the same and ought to have awarded some punishment which will have deterrent effect.

3. In view of the above discussion, this Court is of the opinion that a penalty of stoppage of two increments with future effect will be just and proper. The award of the Labour Court is modified to that extent.

4. The petitioner corporation shall reinstate the respondent workman as early as possible, but not later than 31.7.2001.

5. Rule is made absolute to the aforesaid extent only with no order as to costs.

(Ravi R. Tripathi, J.)

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